THOUGHTS

ON THE

CONSTITUTIONAL RIGHTS

OF

PARLIAMENT,

RESPECTING THE POWER OF SURRENDERING

THE

LEGISLATIVE INDEPENDENCE

OF

IRELAND.

By A——N——nd.

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AN

ARGUMENT

AGAINST THE

UNION.

THE queſtion which now agitates the public mind has excited in every man an alarm, equal at leaſt to the perſonal intereſt he may have in the conſequences of an Union with Great Britain. If it is a queſtion of policy or reciprocal advantage, it is fair to enquire into the neceſſity of the one, and nature of the other. I therefore offer to the conſideration of my countrymen the following obſervations :—

1. Has

1. Has the Iriſh Parliament a right to yield the National Independence, without the National conſent?

2. If they have the right, can any thing juſtify the meaſure but national advantage?

3. Will an Union produce that advantage?

4. If it does, could theſe advantages be obtained through no other channel, but that of national degradation?

5. If it does not, will England be as willing to repeal the act of Union for our benefit, as we have been to form the compact for theirs?

6. If it will not be productive of national benefit, does it not become every man to enquire into the means of prevention, and act on thoſe means with coolneſs, temper and wiſdom?

7. If the nation, by it's voice, determine againſt it, and the Parliament, by it's previous determination, maintain and effect it; does not the Conſtitution juſtify reſiſtance?

The firſt argument conſidered:

Has

Has the Iriſh* Parliament a right to yield the national independence, without the national conſent?

To aſcertain this right, it will be neceſſary to conſider the Conſtitution and nature of Parliament. All Governments are ſuppoſed to be inſtituted for the good of the people. This is the end to which they approximate—the impulſe on which they move. The good of the people being the baſis of Government, there are limits beyond which the Government cannot paſs; that is, it can do nothing to injure the people. The Parliament then being appointed to make ſalutary laws, for the government of the people; can if right do no act to injure the people. The Parliament, therefore, is ſubject to controul. If it be not, why are the oaths of allegiance, ſupremacy, and abjuration required of a member before he takes his ſeat. If he cannot take his ſeat without theſe qualifications, does it not ſuppoſe a controul—a controul placed in the conſtitution, as a barrier to defend itſelf——Again: no man can diſpoſe of the property of another, without his conſent, expreſsly given, or tacitly, by his repreſentative:—as no ſtate can be regulated or defended without taxes, each man contributes a part, in order to preſerve the whole. This right to ſecure and to defend, is given by the Conſtituent to the Repreſentative; but the right is limit-

By Parliament I mean the two Houſes of Lords and Commons.

limited by the neceſſity, and the impoſition on property muſt not exceed the neceſſity, but is regulated by it. Here is a new controul—there muſt be a neceſſity, and that neceſſity is the limitation of his power. Let us view the queſtion in another way: A member of the Houſe of Lords may, if he pleaſes, decline his duty, but he cannot yield his right of acting. Let me be underſtood—By right I do not mean ſimply, his privileges, voting by proxy, &c.—I mean he cannot conſign to another, the actual, poſitive right he derives from the Conſtitution, of ſpeaking and acting as a hereditary legiſlator. Now, if as an individual, he cannot convey this right, the aſſembly of the Houſe of Lords, as a collective body, cannot convey the collective legiſlative right they derive from the Conſtitution. But the Houſe of Lords is hereditary—then each Peer is an hereditary legiſlator; but, in caſe of an Union, that hereditary right is extinguiſhed for ever.

The houſe of Peers is a component part of the conſtitution. It is contra diſtinguiſhed from another part of the conſtitution by this very right.—Here the right is not limited, as in the caſe of the Common's houſe, it is razed, extirpated, annihilated. The elector of a commoner may loſe four fifths of his real authority, but a hereditary lord with-yields the whole of his; becauſe he will

then

then depend for a ſeat, on an election, and thus depending, may be excluded from a ſeat during his life. The election of a Commoner and a Lord will differ only in regard to the number of electors and the mode of election. Their authority, their power, their dignity, is gone for ever! The barrier placed by the conſtitution between the People and the Throne is broken down—there is no force to reſiſt the licentious fury of the one, and the abſolute prerogative of the other. But if the houſe of Lords as a hereditary body are thus limitted, how much more limited are the the Commons who have an aſcertained, delegated, terminable truſt.—This truſt, limited in duration, is to maintain the conſtitution and the laws. If they are to maintain, they cannot yield, or deſtroy it; for this is a violation of the truſt repoſed in and committed to them. If they accede to an Union, they violate the contract between the conſtituent and repreſentative—in the firſt inſtance, by conſigning to others a truſt delegated to themſelves—in the next, by giving to another nation the power of impoſing taxes on their own, without the conſent of both parties, to the tranſfer of that power. If there be a contract, expreſſed or implied, between the repreſentative and conſtituent, both parties are equally bound by the terms of that contract. Now, the moſt prominent term of the contract is, that at the time

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preſcribed by law, the repreſentative ſurrender to his conſtituent the truſt imparted to him—but if inſtead of yielding it to his conſtituent, he embezzles a part, and makes a conveyance of the remainder to others, is it not a breach of faith and an unjuſtifiable act of power? Does not this reaſoning apply to the whole?—Can the houſe of Commons put into the hands of another country, a right to legiſlate for them, to their own excluſion?—Does not this act diſſolve at once the conſtitution from which they derive their political exiſtence?

The Conſtitution has veſted in the people alone the right of electing: this is a right they do not impart or convey to their repreſentative as they do others—they retain, jealouſly retain this; and under every poſſible circumſtance, never ſurrender it. If the conſtituent cannot convey it, the repreſentative cannot uſe it; therefore cannot impart it to others—but if he does impart it, the repreſentative then beſtows the right of another. —What muſt be inferred from this act but that it is a violation of the conſtitution and an act of flagrant injuſtice? But it will be ſaid they do not uſurp the right, they only convey it through another channel. Admitting this the fact; they ſtill abuſe the right; for if even 300 members were returned to the Engliſh Parliament, the conſtitution would

would ſtill be violated; for the conſtitution preſcribes, returning members to an Iriſh Parliament, regulated by Iriſh laws. If this caſe happened, would we not then be ſubject to Britiſh controul, as the Britiſh Parliament would have a decided majority. Was it not declared in 1782, that, "to "ſay England had not renounced her right to "make laws to bind Ireland, was high treaſon, "and a breach of the Conſtitution." I wiſh to ſpeak with reſpect, and under the ſanction of the law. How will theſe contradictions be reconciled? But Ireland will not be repreſented by 300, but by 60 members. I will be confidently told, that under this impreſſion of the fact, the right will not be extinguiſhed. I anſwer it will not be extinguiſhed, but it will be deſtroyed. It might as well be aſſerted, that the man was not robbed, from whom you took 400l. when his whole capital conſiſted but of 500l. Is this fair reaſoning? If it be not, anſwer it on a legal ground, and ſhew in what points it is unſuſtained by juſtice and by truth. It is abſurd to talk of advantages that may be received, or the contrary, when the right of diſcuſſion does not exiſt. I will again be overwhelmed by being told, "the Parliament is above controul." I know a Judge has ſaid this—but it was only an obſervation of the Judge; it was not the law. If it were above controul, could it be prorogued, diſſolved, annihilated; does it not emanate from the King?

is it not deprived of exiſtence by the King? This is a branch of prerogative. Who gave it? The Conſtitution. The Conſtitution then controuls the King, and the King the Parliament. The law therefore ſets a limit both to the Parliament and the King. If the Parliament ſeized on this right, would not the Conſtitution be diſſolved, as in the reign of Charles the Firſt. The Parliament then is not above controul. If the Conſtitution governs the Parliament, it is an act of treaſon to deſtroy or diminiſh that act of Government.—Charles, by an attack on the Conſtitution, loſt his life.—James loſt his Throne—they did not attempt to deſtroy, but to infringe it. How ſevere was their puniſhment! I wiſh to make no inference; but it is a principle in philoſophy, that ſimilar cauſes will produce ſimilar effects.

Grotius ſays, "a people can give themſelves to a King."—They muſt be the PEOPLE. They may appoint perſons to make the ceſſion; theſe are only the organ of the general will and the general voice.--Let the Parliament be the organ, but give the people the will. It is a principle, that the law binds *all*, becauſe it expreſſes the will of *all*—the right then is a conſequence of the will. An Union will extinguiſh this right, and thus deſtroy the ground on which they ſtand, the authority which gave them exiſtence. It may be ſaid, "it

"will

" will ſecure the Engliſh Sovereignty." This is problematical. But it does not give a power to annihilate the Iriſh Sovereignty.

I think I have proved that there is a controul—and that this controul is placed by the conſtitution in the people. Now, an Union is a change of the conſtitution—and as the people alone are competent to make the change—their ſenſe ſhould be taken. If the Independenee of Ireland be diſpoſed of, contrary to that ſenſe, it muſt be by force. Is this a time to try an experiment of the ſword? To prevent the experiment, admit the right—give the people the deciſion of the queſtion—if they prefer an Union—let every arm ſupport it.

A. N.

(To be continued.)

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